

UNITED STATES DISTRICT COURT
IN THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

MIDLAND FUNDING, LLC

Plaintiff/Counter-Defendant,

Case No. 3:08-cv-1434-DAK

v.

Hon. David A. Katz

ANDREA L. BRENT,

Defendant/Third-Party
Plaintiff/Counter-Claimant

v.

MIDLAND CREDIT MANAGEMENT, INC.

Third-Party Defendant

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**STIPULATION AND ORDER CONCERNING NON-WAIVER OF CERTAIN
ATTORNEY-CLIENT COMMUNICATIONS**

Upon the stipulation of the parties, and their motion under Rule 502(d) of the Federal Rules of Evidence, the parties agree, and this Court hereby finds that:

Plaintiff Midland Funding, LLC ("Midland Funding") has brought a breach of contract/collection suit against Defendant Andrea Brent ("Brent"). Brent then brought a counter-claim and third-party claim alleging that Midland Funding and Midland Credit Management, Inc. ("MCM") violated the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 *et seq.* ("FDCPA"). Defendant Brent recently amended her claims to add a cause of action under the Ohio Consumer Sales Practices Act ("OCSA") § 1345 *et seq.* Midland Funding and MCM deny these claims in their entirety.

Brent now desires certain documents that may involve matters protected by the attorney-client privilege and work-product doctrine. Midland Funding and MCM are willing to allow the production of certain pre-lawsuit documents, *infra*, of their legal counsel Javitch, Block & Rathbone, regarding collection actions on Brent's credit card account at issue only as long as Brent agrees, and this Court orders, that such production of documents shall not be deemed a waiver of the attorney-client privilege, work-product doctrine or any other applicable privilege or protection with respect to the subject matter(s) of such communications. Among other provisions, Federal Rule of Evidence 502(d) provides that a federal court may order that the attorney-client privilege or work-product doctrine protection "is not waived by disclosure connected with the litigation pending before the court--in which event the disclosure is also not a waiver in any other Federal or State proceeding."

IT IS THEREFORE STIPULATED, AGREED AND ORDERED AS FOLLOWS:

1. Javitch, Block & Rathbone's ("JBR") "history notes" for the Brent file from December 13, 2007 until the commencement of this lawsuit in Ohio State Court, correspondence

between JBR and Brent, and JBR's compliance procedures with respect to Brent's allegations, if provided, shall not be deemed to waive, to the extent applicable, the attorney-client privilege or any other privilege or protection, including but not limited to the rights afforded by the attorney work-product doctrine. Further, except for the subject matters specifically listed above, there shall be no discovery on, and there shall be no waiver concerning, attorney-client communications concerning this or any other litigation.

SO STIPULATED.



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SO ORDERED:

s/ David A. Katz

U. S. District Judge